

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

----- Docket No.: 08 CV 5784 (KMK)

x  
49 WB, LLC

**ANSWER**

Plaintiff,

-against-

VILLAGE OF HAVERSTRAW, VILLAGE OF  
HAVERSTRAW BOARD OF TRUSTEES, FRANCIS  
J. "BUD" WASSMER, FRANCISCO BATISTA,  
RAFAEL BUENO, MICHAEL KOHUT, EVELYN  
RODRIGUEZ, and JOHN DOE AND JANE DOE I-  
20,

Defendants.

-----  
x

Defendants, VILLAGE OF HAVERSTRAW, VILLAGE OF HAVERSTRAW BOARD  
OF TRUSTEES, FRANCIS J. "BUD" WASSMER, FRANCISCO BATISTA, RAFAEL  
BUENO, MICHAEL KOHUT and EVELYN RODRIGUEZ, by their attorneys MIRANDA  
SOKOLOFF SAMBURSKY SLONE VERVENIOTIS LLP, answering the plaintiff's complaint:

**NATURE OF THE ACTION**

1. Deny the allegations contained in paragraph "1" of the complaint, and refer all questions of law to the Court for adjudication.
2. Deny the allegations contained in paragraph "2" of the complaint, and refer all questions of law to the Court for adjudication.
3. Deny the allegations contained in paragraph "3" of the complaint, and refer all questions of law to the Court for adjudication.
4. Deny the allegations contained in paragraph "4" of the complaint.

5. Deny the allegations contained in paragraph “5” of the complaint.

**JURISDICTION AND VENUE**

6. Deny the allegations contained in paragraph “6” of the complaint, except admit that this paragraph is a summary of the claims.

7. Deny the allegations contained in paragraph “7” of the complaint, and refer all questions of law to the Court for adjudication.

8. Admit the allegations contained in paragraph “8” of the complaint.

**PARTIES**

9. Deny knowledge or information sufficient to form a belief as to the allegations in paragraph “9” of the complaint.

10. Admit the allegations contained in paragraph “10” of the complaint.

11. Admit the allegations contained in paragraph “11” of the complaint.

12. Deny the allegations contained in paragraph “12” of the complaint, except admit that the Defendant, Francis J. “Bud” Wassmer, was at certain times alleged herein the Mayor of the Village.

13. Admit the allegations contained in paragraph “13” of the complaint.

14. Admit the allegations contained in paragraph “14” of the complaint.

15. Admit the allegations contained in paragraph “15” of the complaint.

16. Deny the allegations contained in paragraph “16” of the complaint, except admit that Evelyn Rodriquez was at certain times alleged herein a member of the Village Board.

17. Deny the allegations contained in paragraph “17” of the complaint, except admit that each of the foregoing individual Defendants have executed the duties of their respective offices for the public good in accordance with law.

18. Deny knowledge or information sufficient to form a belief as to the allegations in paragraph “18” of the complaint.

### **FACTS**

19. Deny the allegations contained in paragraph “19” of the complaint.

20. Deny knowledge or information sufficient to form a belief as to the allegations in paragraph “20” of the complaint.

21. Deny knowledge or information sufficient to form a belief as to the allegations in paragraph “21” of the complaint.

22. Deny knowledge or information sufficient to form a belief as to the allegations in paragraph “22” of the complaint.

23. Deny the allegations contained in paragraph “23” of the complaint, and begs leave to refer to the Village Board minutes at the time of trial for its terms and conditions

24. Deny the allegations contained in paragraph “24” of the complaint.

25. Deny the allegations contained in paragraph “25” of the complaint.

26. Deny knowledge or information sufficient to form a belief as to the allegations in paragraph “26” of the complaint.

27. Deny the allegations contained in paragraph “27” of the complaint.

28. Deny the allegations contained in paragraph “28” of the complaint.

29. Deny knowledge or information sufficient to form a belief as to the allegations in paragraph “29” of the complaint.

30. Deny the allegations contained in paragraph “30” of the complaint.

31. Deny the allegations contained in paragraph “31” of the complaint.

32. Deny the allegations contained in paragraph “32” of the complaint, and begs leave to refer to the Village Board minutes at the time of trial for their terms and conditions.

33. Deny the allegations contained in paragraph “33” of the complaint.

34. Deny the allegations contained in paragraph “34” of the complaint, except admit that the Village Board retained counsel.

35. Deny the allegations contained in paragraph “35” of the complaint.

36. Deny the allegations contained in paragraph “36” of the complaint.

37. Deny the allegations contained in paragraph “37” of the complaint, and begs leave to refer to all Village Board resolutions at the time of trial in their entirety.

38. Deny knowledge or information sufficient to form a belief as to the allegations in paragraph “38” of the complaint.

39. Deny knowledge or information sufficient to form a belief as to the allegations in paragraph “39” of the complaint.

40. Deny the allegations contained in paragraph “40” of the complaint.

41. Deny the allegations contained in paragraph “41” of the complaint.

42. Deny the allegations contained in paragraph “42” of the complaint.

43. Deny the allegations contained in paragraph “43” of the complaint.

44. Deny the allegations contained in paragraph “44” of the complaint.

45. Deny the allegations contained in paragraph “45” of the complaint, and begs leave to refer to all Village Board minutes at the time of trial in their entirety.

46. Deny the allegations contained in paragraph “46” of the complaint.

47. Deny the allegations contained in paragraph “47” of the complaint.

48. Deny the allegations contained in paragraph “48” of the complaint.

49. Deny the allegations contained in paragraph “49” of the complaint.

50. Deny the allegations contained in paragraph “50” of the complaint.

51. Deny the allegations contained in paragraph “51” of the complaint.

52. Deny the allegations contained in paragraph “52” of the complaint.

53. Deny the allegations contained in paragraph “53” of the complaint, and begs leave to refer to all Village Board Resolutions at the time of trial.

54. Deny the allegations contained in paragraph “54” of the complaint.

55. Deny the allegations contained in paragraph “55” of the complaint.

56. Deny the allegations contained in paragraph “56” of the complaint, and begs leave to refer to all Village Board Resolutions at the time of trial.

57. Deny the allegations contained in paragraph “57” of the complaint, and begs leave to refer to all Village Board Resolutions at the time of trial.

58. Deny the allegations contained in paragraph “58” of the complaint, and begs leave to refer to all Village Board Resolutions at the time of trial.

59. Deny the allegations contained in paragraph “59” of the complaint, and begs leave to refer to all Village Board Resolutions at the time of trial.

60. Deny knowledge or information sufficient to form a belief as to the allegations in paragraph “60” of the complaint.

61. Deny knowledge or information sufficient to form a belief as to the allegations in paragraph “61” of the complaint.

62. Deny knowledge or information sufficient to form a belief as to the allegations in paragraph “62” of the complaint.

63. Deny the allegations contained in paragraph “63” of the complaint.

64. Deny knowledge or information sufficient to form a belief as to the allegations in paragraph “64” of the complaint.

65. Deny the allegations contained in paragraph “65” of the complaint.

66. Deny knowledge or information sufficient to form a belief as to the allegations in paragraph “66” of the complaint.

67. Deny knowledge or information sufficient to form a belief as to the allegations in paragraph “67” of the complaint.

68. Deny the allegations contained in paragraph “68” of the complaint.

69. Deny knowledge or information sufficient to form a belief as to the allegations in paragraph “69” of the complaint.

70. Deny the allegations contained in paragraph “70” of the complaint.

71. Deny the allegations contained in paragraph “71” of the complaint, and begs leave to refer to all Village Board Resolutions at the time of trial.

72. Deny the allegations contained in paragraph “72” of the complaint.

73. Deny the allegations contained in paragraph “73” of the complaint, and begs leave to refer to all Village Board Resolutions at the time of trial.

74. Deny the allegations contained in paragraph “74” of the complaint, and begs leave to refer to all Village Board Resolutions at the time of trial.

75. Deny knowledge or information sufficient to form a belief as to the allegations in paragraph “75” of the complaint.

76. Deny knowledge or information sufficient to form a belief as to the allegations in paragraph “76” of the complaint.

77. Deny knowledge or information sufficient to form a belief as to the allegations in paragraph “77” of the complaint.

78. Deny knowledge or information sufficient to form a belief as to the allegations in paragraph “78” of the complaint.

79. Deny the allegations contained in paragraph “79” of the complaint, and begs leave to refer to all Village Board Resolutions at the time of trial.

80. Deny the allegations contained in paragraph “80” of the complaint, and begs leave to refer to all Village Board Resolutions at the time of trial.

81. Deny the allegations contained in paragraph “81” of the complaint.

82. Deny the allegations contained in paragraph “82” of the complaint.

83. Deny the allegations contained in paragraph “83” of the complaint, and respectfully refer all questions of law to the Court for adjudication.

84. Deny the allegations contained in paragraph “84” of the complaint, and respectfully refer all questions of law to the Court for adjudication.

85. Deny the allegations contained in paragraph “85” of the complaint, and respectfully refer all questions of law to the Court for adjudication.

86. Deny the allegations contained in paragraph “86” of the complaint, and respectfully refer all questions of law to the Court for adjudication.

87. Deny the allegations contained in paragraph “87” of the complaint.

88. Deny the allegations contained in paragraph “88” of the complaint.

89. Deny the allegations contained in paragraph “89” of the complaint.

90. Deny the allegations contained in paragraph “90” of the complaint.

91. Deny the allegations contained in paragraph “91” of the complaint.

92. Deny the allegations contained in paragraph “92” of the complaint.

93. Deny the allegations contained in paragraph “93” of the complaint.

94. Deny the allegations contained in paragraph “94” of the complaint.

95. Deny the allegations contained in paragraph “95” of the complaint.

**ANSWERING THE FIRST CAUSE OF ACTION**

96. Defendants repeat and reallege each and every denial set forth in ¶¶ “1” through “95” of this Answer as if more fully set forth at length herein.

97. Admit the allegations contained in paragraph “97” of the complaint.

98. Deny the allegations contained in paragraph “98” of the complaint.

99. Deny the allegations contained in paragraph “99” of the complaint.

100. Deny the allegations contained in paragraph “100” of the complaint.

101. Deny the allegations contained in paragraph “101” of the complaint.

102. Deny the allegations contained in paragraph “102” of the complaint.



103. Deny the allegations contained in paragraph “103” of the complaint.

**ANSWERING THE SECOND CAUSE OF ACTION**

104. Defendants repeat and reallege each and every denial set forth in ¶¶ “1” through “103” of this Answer as if more fully set forth at length herein.

105. Admit the allegations contained in paragraph “105” of the complaint.

106. Deny the allegations contained in paragraph “106” of the complaint.

107. Deny the allegations contained in paragraph “107” of the complaint.

108. Deny the allegations contained in paragraph “108” of the complaint.

109. Deny the allegations contained in paragraph “109” of the complaint.

110. Deny the allegations contained in paragraph “110” of the complaint.

111. Deny the allegations contained in paragraph “111” of the complaint.

**ANSWERING THE SECOND CAUSE OF ACTION**

112. Defendants repeat and reallege each and every denial set forth in ¶¶ “1” through “111” of this Answer as if more fully set forth at length herein.

113. Admit the allegations contained in paragraph “113” of the complaint.

114. Deny the allegations contained in paragraph “114” of the complaint.

115. Deny the allegations contained in paragraph “115” of the complaint.

116. Deny the allegations contained in paragraph “116” of the complaint.

117. Deny the allegations contained in paragraph “117” of the complaint.

118. Deny the allegations contained in paragraph “118” of the complaint.

119. Deny the allegations contained in paragraph “119” of the complaint.

**ANSWERING THE THIRD CAUSE OF ACTION**

120. Defendants repeat and reallege each and every denial set forth in ¶¶ “1” through “119” of this Answer as if more fully set forth at length herein.

121. Admit the allegations contained in paragraph “121” of the complaint.

122. Deny the allegations contained in paragraph “122” of the complaint.

123. Deny the allegations contained in paragraph “123” of the complaint.

124. Deny the allegations contained in paragraph “124” of the complaint.

125. Deny the allegations contained in paragraph “125” of the complaint.

126. Deny the allegations contained in paragraph “126” of the complaint.

**ANSWERING THE FOURTH CAUSE OF ACTION**

127. Defendants repeat and reallege each and every denial set forth in ¶¶ “1” through “126” of this Answer as if more fully set forth at length herein.

128. Admit the allegations contained in paragraph “128” of the complaint.

129. Deny the allegations contained in paragraph “129” of the complaint.

**ANSWERING THE FIFTH CAUSE OF ACTION**

130. Defendants repeat and reallege each and every denial set forth in ¶¶ “1” through “129” of this Answer as if more fully set forth at length herein.

131. Deny the allegations contained in paragraph “131” of the complaint.

132. Deny the allegations contained in paragraph “132” of the complaint.

**AS AND FOR A FIRST AFFIRMATIVE DEFENSE, DEFENDANTS ALLEGE:**

133. That the complaint fails to state a cause of action.

**AS AND FOR A SECOND AFFIRMATIVE DEFENSE, DEFENDANTS ALLEGE:**

134. That the statute of limitations bars this action in whole, or in part.

**AS AND FOR A THIRD AFFIRMATIVE DEFENSE, DEFENDANTS ALLEGE:**

135. The plaintiff has not satisfied the necessary prerequisites to file this action, and has failed to exhaust all administrative remedies.

**AS AND FOR A FOURTH AFFIRMATIVE DEFENSE, DEFENDANTS ALLEGE:**

136. That the Court should decline jurisdiction of any state law claims.

**AS AND FOR A FIFTH AFFIRMATIVE DEFENSE, DEFENDANTS ALLEGE:**

137. That this action is not ripe for adjudication.

**AS AND FOR A SIXTH AFFIRMATIVE DEFENSE, DEFENDANTS ALLEGE:**

138. That there has not been a taking of plaintiff's property at bar as there has not been a complete diminution in value of plaintiff's property.

**AS AND FOR A SEVENTH AFFIRMATIVE DEFENSE, DEFENDANTS ALLEGE:**

139. That the doctrine of collateral estoppel does not apply at bar.

**AS AND FOR A EIGHTH AFFIRMATIVE DEFENSE, DEFENDANTS ALLEGE:**

140. That the doctrine of res judicata does not apply at bar.

**AS AND FOR A NINTH AFFIRMATIVE DEFENSE, DEFENDANTS ALLEGE:**

141. That the individual defendants are entitled to legislative immunity from suit.

**AS AND FOR A TENTH AFFIRMATIVE DEFENSE, DEFENDANTS ALLEGE:**

142. That the individual defendants are entitled to qualified immunity from suit.

**AS AND FOR A ELEVENTH AFFIRMATIVE DEFENSE, DEFENDANTS ALLEGE:**

143. That the action lacks necessary parties for adjudication of the issues at bar.

**WHEREFORE**, defendants demand judgment: 1) dismissing the Complaint in its entirety, with prejudice; 2) awarding defendants the costs of this action, including reasonable

attorneys' fees; and 3) ordering such other and further relief that this Court deems just and equitable.

Dated: Mineola, New York  
September 5, 2008

**MIRANDA SOKOLOFF SAMBURSKY  
SLONE VERVENIOTIS LLP**

A handwritten signature in black ink, appearing to read 'MAM', is written over a horizontal line.

MICHAEL A. MIRANDA (MAM-6413)  
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